

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference P101319.WO.01	FOR FURTHER ACTION See item 4 below	
International application No. PCT/GB2008/001883	International filing date (<i>day/month/year</i>) 03 June 2008 (03.06.2008)	Priority date (<i>day/month/year</i>) 04 June 2007 (04.06.2007)
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237		
Applicant PURSUIT DYNAMICS PLC		

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 *bis*.1(a).
2. This REPORT consists of a total of 7 sheets, including this cover sheet.

In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Box No. I | Basis of the report |
| <input type="checkbox"/> Box No. II | Priority |
| <input type="checkbox"/> Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability |
| <input type="checkbox"/> Box No. IV | Lack of unity of invention |
| <input checked="" type="checkbox"/> Box No. V | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/> Box No. VI | Certain documents cited |
| <input checked="" type="checkbox"/> Box No. VII | Certain defects in the international application |
| <input checked="" type="checkbox"/> Box No. VIII | Certain observations on the international application |

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Facsimile No. +41 22 338 82 70 Form PCT/IB/373 (January 2004)	Date of issuance of this report 07 December 2009 (07.12.2009)
	Authorized officer Dorothee Mülhausen e-mail: pt01.pct@wipo.int

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

To:

see form PCT/ISA/220

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY
(PCT Rule 43bis.1)**

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/GB2008/001883

International filing date (day/month/year)
03.06.2008

Priority date (day/month/year)
04.06.2007

International Patent Classification (IPC) or both national classification and IPC
INV. A62C31/02 B05B7/04

Applicant
PURSUIT DYNAMICS PLC

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1 (a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☒ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



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Date of completion of
this opinion

see form
PCT/ISA/210

Authorized Officer

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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/GB2008/001883

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of:
 - ☒ the international application in the language in which it was filed
 - ☐ a translation of the international application into , which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1 (b)).
2. ☐ This opinion has been established taking into account the **rectification of an obvious mistake** authorized by or notified to this Authority under Rule 91 (Rule 43bis.1(a))
3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material:
 - ☐ on paper
 - ☐ in electronic form
 - c. time of filing/furnishing:
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in electronic form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
4. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
5. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/GB2008/001883

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	<u>7,9,10,15-17</u>
	No: Claims	<u>1-6,8,11-14</u>
Inventive step (IS)	Yes: Claims	<u>10,15-17</u>
	No: Claims	<u>1-9,11-14</u>
Industrial applicability (IA)	Yes: Claims	<u>1-17</u>
	No: Claims	

2. Citations and explanations

see separate sheet

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

Re Item V

**Reasoned statement with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

1.0 Reference is made to the following documents:

D1: WO 2005/082546 A

D2: WO 97/38757 A

D3: EP-A-1 163 931

D4: US-A-5 779 159

D5: WO 00/37143 A

2.0 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 1-6,8 and 11-14 is not new in the sense of Article 33(2) PCT.

2.1 D1 discloses (the references in parentheses applying to this document):

An apparatus for generating a mist comprising:
a first transport fluid passage (7) having a first transport fluid inlet (3a), a first transport fluid outlet (22), and a throat portion (fig. 16) intermediate the first transport fluid inlet (3a) and the first transport fluid outlet (22), the throat portion (fig. 16) having a cross sectional area which is less than that of either the first transport fluid inlet (3a) or the first transport fluid outlet (22);
at least one working fluid passage (32) located radially outwardly (fig. 16) of the first transport fluid passage (7) and having a working fluid inlet (30) and a working fluid outlet (fig. 16);
at least one second transport fluid passage (8) having a second transport fluid inlet (11) and a second transport fluid outlet (16) in fluid communication (fig. 16) with the working fluid passage (32); and
an outlet nozzle (9) in fluid communication with the first transport fluid and working fluid outlets (22, fig. 16);
wherein the second transport fluid passage (8) has an outlet (16) located in the working fluid passage (32) upstream of the working fluid outlet (fig. 16) [cf. claim 1].

- 2.2 Likewise, D1 discloses the subject-matter of independent method claim 11.
- 2.3 D2-D5 also disclose the subject-matter of independent claims 1 and 11. Reference is made to the passages cited in the International Search Report.
- 2.4 Dependent claims 2-6,8 and 12-14 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty. Reference is made to the passages cited in the International Search Report.
- 3.0 The combination of the features of claims 1 and 10 is neither known from, nor rendered obvious by, the available prior art. A corresponding method claim would also be allowable.

Re Item VII

Certain defects in the international application

- 4.0 The features of the claims are not provided with reference signs placed in parentheses (Rule 6.2(b) PCT).
- 4.1 According to the requirements of Rule 11.13(I) reference signs not appearing in the description shall not appear in the drawings, and vice versa. This requirement is not met in view of the reference signs 212 and 212b which appear in the description (page 11, lines 2-7) but not in figure 3, and in view of reference sign 218 which appears in figure 3 but not in the description.

Re Item VIII

Certain observations on the international application

- 5.0 The lack of novelty of independent claims 1 and 11 is a result of an imprecise definition of the working and second transport fluid passages and especially the position of the working and second transport fluid outlets (e.g. with reference to figure 1 of the application, the working fluid outlet is indicated at position 14b, however, the

working fluid outlet could also be positioned at the end of section 14c before the second transport fluid passage runs into the working fluid passage. Interpretation of the outlet positions of the cited documents allows the same freedom in choosing the outlet position).

- 5.1 The term "*substantially straight-through passageway*" used in claim 7 is vague and unclear and leaves the reader in doubt as to the meaning of the technical feature to which it refers, thereby rendering the definition of the subject-matter of said claim unclear, Article 6 PCT.

Claim 9 attempts to define the invention by specifying that the working fluid outlet is substantially perpendicular to the longitudinal axis of the first transport fluid passage. However, the description (page 7, lines 9-11) and drawings (figure 1,2) convey the impression that a portion 14e near the working fluid inlet is substantially perpendicular to the longitudinal axis of the first transport fluid passage. Hence, claim 12 is not supported by the description as required by Article 6 PCT.

- 5.2 The vague and imprecise statement "*Modifications and [...] present invention.*" in the description on page 12 implies that the subject-matter for which protection is sought may be different to that defined by the claims, thereby resulting in lack of clarity (Article 6 PCT) when used to interpret them.

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